

ASSEMBLY BILL

No. 2694

Introduced by Assembly Member Pacheco

February 23, 1998

An act to amend Sections 50126, 50316, and 50700 of the Financial Code, relating to residential mortgage lending.

LEGISLATIVE COUNSEL'S DIGEST

AB 2694, as introduced, Pacheco. Residential mortgage lending.

Existing law, the California Residential Mortgage Lending Act, regulates the making of residential mortgage loans by specified entities. The act requires the licensing of persons who make and service loans on residential real property.

This bill would make technical nonsubstantive changes in that law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 50126 of the Financial Code is
2 amended to read:
3 50126. (a) Upon reasonable notice and opportunity to
4 be heard, the commissioner may deny an application for
5 any of the following reasons:
6 (1) A false statement of a material fact has been made
7 in the application.

1 (2) Any officer, director, general partner, or person
2 owning or controlling, directly or indirectly, 10 percent
3 or more of the outstanding interests or equity securities
4 of the applicant has, within the last 10 years, (A) been
5 convicted of, or pleaded nolo contendere to, a crime or
6 (B) committed any act involving dishonesty, fraud, or
7 deceit, if the crime or act is substantially related to the
8 qualifications, functions, or duties of a person engaged in
9 business in accordance with this division.

10 (3) The applicant or any officer, director, general
11 partner, or person owning or controlling, directly or
12 indirectly, 10 percent or more of the outstanding interests
13 or equity securities of the applicant, has violated any
14 provision of this division or the rules thereunder or any
15 similar regulatory scheme of *the State of California* or a
16 foreign jurisdiction.

17 (b) The application shall be considered withdrawn
18 within the meaning of this section if the applicant fails to
19 respond to a written notification of a deficiency in the
20 application within 90 days of the date of the notification.

21 (c) The commissioner shall, within 60 days from the
22 filing of a full and complete application for a license,
23 including the receipt of background and investigative
24 reports from the Department of Justice or other
25 government agencies, and the payment of the fees
26 required by Section 50121, issue either a license or a
27 statement of issues prepared in accordance with Chapter
28 5 (commencing with Section 11500) of Part 1 of Division
29 3 of Title 2 of the Government Code.

30 SEC. 2. Section 50316 of the Financial Code is
31 amended to read:

32 50316. (a) For any licensee, a disciplinary action
33 taken by *the State of California*, another state, ~~by~~ any
34 agency of the federal government, or ~~by~~ another country
35 for any action substantially related to the activity
36 regulated under this law may be a ground for disciplinary
37 action by the commissioner. A certified copy of the record
38 of the disciplinary action taken against a licensee by *the*
39 *State of California*, another state, any agency of the

1 federal government, or another country shall be
2 conclusive evidence of the events related therein.

3 (b) Nothing in this section shall preclude the
4 commissioner from applying a specific statutory
5 provision in this division providing for discipline against
6 a licensee as a result of disciplinary action taken against
7 a licensee by *the State of California*, another state, an
8 agency of the federal government, or another country.

9 SEC. 3. Section 50700 of the Financial Code is
10 amended to read:

11 50700. (a) No residential mortgage lender, or any
12 person or employee acting under the authority of a
13 residential mortgage lender's license, may provide
14 brokerage services to a borrower, except as provided in
15 subdivision (c).

16 (b) "Brokerage services" means either of the
17 following:

18 (1) Obtaining or attempting to obtain, on behalf of a
19 borrower, a residential mortgage loan, as defined in
20 *subdivision (n) of Section 50003(n) 50003*, secured by
21 residential real estate, as defined in *subdivision (s) of*
22 *Section 50003(s) 50003*, made with the funds of another
23 institutional lender, as defined in *paragraphs (1), (2), and*
24 *(4) of subdivision (j) of Section 50003(j)(1), (2), and (4)*
25 *50003*, and closed in the name of that lender, for a fee paid
26 by the borrower or the institutional lender.

27 (2) Obtaining or attempting to obtain, on behalf of a
28 borrower, a residential mortgage loan, as defined in
29 *subdivision (n) of Section 50003(n) 50003*, secured by
30 residential real estate, as defined in *subdivision (s) of*
31 *Section 50003(s) 50003*, made with the funds of another
32 institutional lender, as defined in *paragraphs (1), (2), and*
33 *(4) of subdivison (j) of Section 50003(j)(1), (2), and (4)*
34 *50003*, but closed in the name of the licensee, for a fee paid
35 by the borrower or the institutional lender.

36 (c) A residential mortgage lender may provide
37 brokerage services under the authority of its license, if the
38 lender first enters into a written brokerage agreement
39 with the borrower that satisfies the requirements of
40 Section 50701.

1 (d) This chapter does not authorize a licensee to do
2 any of the following:

3 (1) Provide brokerage services through independent
4 contractors.

5 (2) Obtain or attempt to obtain for a borrower a
6 residential mortgage loan that is a “high cost mortgage,”
7 referred to in Section 152(aa)(1) of the Home Ownership
8 and Equity Protection Act of 1994, as amended (~~12 U.S.C.~~
9 ~~Sec. 1602~~)(*15 U.S.C. Sec. 1602 (aa) (1)*).

10 (3) Hold itself out to borrowers, through advertising
11 by any means, as a mortgage broker, rather than a
12 residential mortgage lender. However, a licensee shall
13 disclose its status as a broker or agent when that disclosure
14 is required by law.

15 (4) Perform activity subject to Section 10131 of the
16 Business and Professions Code, except activities
17 authorized by this division.

